

15 JUN 2010



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In re Application of	:	
SHAEFER, Gerhard	:	
U.S. Application No.: 10/541,730	:	DECISION
Filing Date: 07 July 2005	:	
Attorney Docket No.: WWPP.8025.0015	:	
For: PICKING STATION	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371.

BACKGROUND

On 07 July 2005, applicant filed, *inter alia*, a specification indicating that the application was a continuation of international application PCT/EP2004/013073.

On 17 October 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 11 December 2006, applicants filed additional fees, a declaration of the inventor and the surcharge.

On 26 December 2006, the Office mailed a filing receipt and a Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 USC 371 (c)(1), (c)(2) and (c)(4) and all 35 USC 371 completion dates of 11 December 2006.

On 01 May 2009, the Office mailed a Notice of Allowance and Fee(s) Due (PTOL-85).

On 25 June 2009, applicants furnished the issue and publication fees.

DISCUSSION

A review of the above-captioned application file indicates it is a utility application filed under 35 U.S.C. 111(a).

The USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.

* * *

If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

Here, the specification states that this application is a continuation of international application PCT/EP2004/013073, an instruction to process the application under 35 USC 111(a).¹ As such, this application must be processed under 35 USC 111(a), not 35 USC 371.

CONCLUSION

As indicated above, this application will be processed as a 35 USC 111(a) filing.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 17 October 2006 and Notification of Acceptance (Form PCT/DO/EO/903) mailed 26 December 2006 are VACATED.

This application is being referred to the Office of Patent Application Processing for further processing as an application filed under 35 USC 111(a) with a filing date of 07 July 2005.

/Erin P. Thomson/

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¹ It is noted that while the specification contains a benefit claim under 35 U.S.C. 120 and 365(c) to the international application, the benefit claim does not fully comply with the provisions of 37 CFR 1.78(a)(2)(i), as the international filing date is not provided.